

## REMARKS

### I. Status Summary

Claims 1-6, 8-11, 16-25, 27-30, 33-39, and 41-44 are pending in the present application. Claims 3, 6, 8-11, 17, 22, 25, 27-30, 33-39, and 41-44 currently stand withdrawn. Claims 1, 2, 4, 5, 16, 18-21, 23, and 24 have been examined by the United States Patent and Trademark Office (hereinafter "the Patent Office") in a Non-Final Official Action dated June 13, 2011 (hereinafter the "Non-Final Official Action") and presently stand rejected.

Claims 1, 2, 4, 5, 16, 18-21, 23, and 24 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. In particular, the Patent Office contends that the phrase "without compromising the function of the antigen" is unclear.

Claims 1, 2, 4, 5, 16, 18-21, 23, and 24 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. In particular, the Patent Office contends that the specification is not enabling with regard to the phrase "by means of an *in vivo* antibody antigen interaction without compromising the function of the antigen."

Claims 1, 2, 4, 5, 16, 18-21, 23, and 24 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Patent Office contends that there is no support in the specification as originally filed for the recitation "express a Fc $\gamma$  receptor" or "expressing the Fc $\gamma$  receptor."

In the proposed claimed set presented herein above, independent claims 1 and 18 have been amended as follows:

- The phrase "without compromising the function of the antigen" has been removed. Support for this modification can be found, for example, in claim 1 as originally filed;
- The phrase "Fc $\gamma$  receptor" has been amended to read the "Fc $\gamma$ RIIB receptor". Support for this modification can be found, for example, on page 4, line 17, as well as in the various Examples of the as-filed PCT application; and

- The protein is being further qualified as being a "foreign protein". Support for this amendment can be found, for example, in claim 2 as well as on page 3, lines 4 to 7, of the published PCT application.

In view of these amendments, claims 2, 7 to 11, 21 and 27 to 30 have been cancelled without prejudice or disclaimer. In addition, the dependency of claims 3 to 6 and 22 to 25 has been adjusted. Also, the claims have been amended for purposes of consistency and clarity. Reconsideration of the application as amended and in view of the remarks presented herein below is respectfully requested.

## II. Telephone Interview Summary

A Telephone Interview was scheduled and conducted on August 31, 2011. Participating in the interview on behalf of the U.S. Patent and Trademark Office was Examiner Ronald Schwadron. Participating on behalf of Applicants were applicant Alan Lazarus, applicants' counsel in Canada Marie-Hélène Rochon, and applicants' counsel of record Arles A. Taylor, Jr. Applicants wish to extend their most sincere thanks to Examiner Schwadron for his time and consideration in participating in the Telephone Interview.

The outstanding rejections under 35 U.S.C. Section 112 were discussed. Possible claim amendments were discussed. The amendments presented herein are believed to be consistent with these discussions and with applicants' understanding of Examiner Schwadron's comments in the Telephone Interview. Again, reconsideration of the application as amended and in view of the remarks presented herein below is respectfully requested.

## III. Response to Rejection under 35 U.S.C. Section 112, 2<sup>nd</sup> paragraph – "without compromising the function of the antigen"

Claims 1, 2, 4, 5, 16, 18-21, 23 and 24 are rejected for allegedly failing to point out and distinctly claim the subject matter which applicants regard as the invention. Without acquiescing to the contentions of the Patent Office, and solely for the purposes of expediting prosecution, the cancellation of the expression "without compromising the function of the antigen" is believed to render this rejection moot.

IV. Response to Rejection under 35 U.S.C. Section 112, 1<sup>st</sup> paragraph –  
“without compromising the function of the antigen”

Claims 1, 2, 4, 5, 16, 18-21, 23 and 24 are rejected for allegedly failing to comply with the enablement requirement. Without acquiescing to the contentions of the Patent Office, and solely for the purposes of expediting prosecution, the cancellation of the expression “without compromising the function of the antigen” is believed to render this rejection moot.

V. Response to Rejection under 35 U.S.C. Section 112, 1<sup>st</sup> paragraph –  
“FcγRIIB”

Claims 1, 2, 4, 5, 16, 18-21, 23 and 24 are rejected for allegedly failing to comply with the written description requirement. Without acquiescing to the contentions of the Patent Office, and solely for the purposes of expediting prosecution, independent claims 1 and 18 have been amended to refer to the “FcγRIIB receptor”. As mentioned in the Official Action, “there is no support in the specification as originally filed for the scope of said limitation which encompasses FcγR *other than FcγRIIB*”. (Emphasis added.) As such, reconsideration is thus respectfully requested.

VI. Additional Considerations

In a Non-Final Official Action dated March 11, 2010, an Applicants’ derived publication was cited as allegedly anticipatory (Siragam *et al.*). The cited article was published after the priority date of the instant application and as such, is believed to be not citable against the present case. Please note that the elements introduced in the proposed set of claims do have support in *both* priority documents. For example, in the priority documents, claim 1 did not present the “without compromising the function of the antigen” element, claim 2 recited that the antigen is a foreign antigen, and the Examples provided evidence concerning FcγRIIB receptor expression.

Accordingly, for clarity of the record and in the event that the Patent Office might consider reapplying Siragam *et al.*, applicants respectfully note that the present claims are believed to be fully supported by PCT/CA2005/000472 filed March 30, 2005. The claims are also believed to be fully supported by the priority documents: *i.e.*, U.S.

Provisional Patent Application Serial Nos. 60/558,080 and 60/613,712, filed March 30, 2004 and September 29, 2004, respectively. Accordingly, applicants respectfully submit that Siragam et al. is believed to be disqualified as prior art with respect to the instant application under either 35 U.S.C. § 102(b) or 35 U.S.C. § 102(a).

VII. Information Disclosure Statement

An Information Disclosure Statement that includes references that were cited by the European Patent Office in the prosecution of a corresponding European patent application is being filed simultaneously herewith.

VIII. Election/Restriction

Applicants respectfully reiterate that the elected generic claims (1, 3, 6, 17, 22 and 25) are believed to be free of prior art and that additional species claims should be rejoined. In view of the present Amendment and Remarks, applicants respectfully submit that the presently elected generic claims (e.g., claims 1 and 18) are believed to be free of the art. Applicants respectfully ask that the Patent Office consider rejoinder of additional species, as well as claims reciting said additional species (e.g., claims 3, 6, 17, 22 and 25) in accordance with Manual of Patent Examining Procedure § 803.02.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT

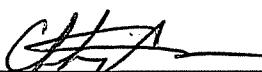
The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: September 13, 2011

By: \_\_\_\_\_

  
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